

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

ROSCHER et al.

Confirmation No.: 3799

Serial No: 10/589,871

Group Art Unit: 1627

Filed: August 18, 2006

Examiner: CHONG, Y.S.

For: **CICLESONIDE AND GLYCOPYRRONIUM COMBINATION**

PETITION UNDER 37 CFR § 41.3

Chief Administrative Patent Judge
Board of Patent Appeals and Interferences
Alexandria, VA 22313

Sir:

Petitioners, through the undersigned attorney, hereby request consideration of this Petition to grant sufficient time for Petitioners to file a Reply Brief in the captioned application which is currently under appeal. The Chief Administrative Patent Judge has jurisdiction to decide this Petition pursuant to 37 CFR §41.3(b).

This Petition is being filed within fourteen (14) days "from the date of the action from which the party is requesting relief" (i.e. June 21, 2011) pursuant to 37 CFR §41.3(e)(1)(i). Further, the required fee of \$400.00 under 37 CFR §§41.3(c) and 41.20(a) accompanies this Petition.

Statement of Facts

Petitioners / Appellants timely filed an Appeal Brief on January 26, 2011. An Examiner's Answer was mailed on April 20, 2011. However, Petitioners / Appellants never received the Examiner's Answer because it was returned to the USPTO as "undelivered mail" on April 22, 2011. A copy of the Examiner's Answer returned as "undelivered mail" is attached herewith as an Exhibit.

On June 21, 2011, Petitioners' attorney received a telephone call from a representative from the USPTO indicating that the Examiner's Answer had been returned to the USPTO. Petitioners' attorney indicated that he was not aware that the Examiner's Answer had been mailed and agreed

to download the Examiner's Answer from the USPTO's PAIR website. Upon downloading the Examiner's Answer on June 21, 2011, Petitioners' attorney noted that the Examiner's Answer was mailed two months and one day prior to the phone call with the Examiner (i.e. April 20, 2011). As such, the time period for filing a Reply Brief had already expired by the time the USPTO notified Petitioners' attorney that the Examiner's Answer had been returned to the USPTO.

In a follow-up telephone call to the Examiner of the application, the Examiner indicated that he was not authorized to allow any additional time for Petitioners / Appellants to file a Reply Brief. The Examiner further indicated that, should Petitioners / Appellants wish to file a Reply Brief, a Petition should be filed directed to the attention of the Chief Administrative Patent Judge.

Relief Sought

Petitioners / Appellants would simply like a fair opportunity to respond to the Examiner's Answer. Accordingly, Petitioners / Appellants respectfully petition the Chief Administrative Patent Judge to establish a two-month time period for filing a Reply Brief in the captioned application for two months after June 21, 2011, the date that Petitioners / Appellants were made aware that an Examiner's Answer was mailed, i.e. August 21, 2011.

Conclusion

Please charge any deficiency in fees or credit any overpayment in connection with this matter to deposit Account No. 14-0112.

Please direct any questions or comments to the undersigned attorney.

Respectfully submitted,
THE NATH LAW GROUP

Date: June 22, 2011

/ Joshua B. Goldberg /
Joshua B. Goldberg, Reg. No. 44,126
Sheldon M. McGee, Reg. No. 50,454
Customer No. 34375

THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314
Phone: 703-548-6284
Fax: 703-683-8396